

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

ARLIN TROUTT,
Plaintiff/Appellant,

v.

KENNETH RUSSELL,
Defendant/Appellee.

Nos. 2 CA-CV 2022-0058 and
2 CA-CV 2022-0060 (Consolidated)
Filed January 3, 2023

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).

Appeal from the Superior Court in Pinal County
Nos. S1100PO202200145 and S1100PO202100161
The Honorable Joseph R. Georgini, Judge

AFFIRMED

Arlin Troutt, Gold Canyon
In Propria Persona

Kenneth Russell, Mesa
In Propria Persona

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MEMORANDUM DECISION

Chief Judge Vásquez authored the decision of the Court, in which Presiding Judge Eckerstrom and Judge Cattani concurred.

V Á S Q U E Z, Chief Judge:

¶1 In these consolidated appeals, Arlin Troutt challenges the trial court's orders in two causes dismissing his injunctions against harassment against Kenneth Russell. For the following reasons, we affirm.

Factual and Procedural Background

¶2 We view the facts in the light most favorable to upholding the trial court's rulings. *See Mahar v. Acuna*, 230 Ariz. 530, ¶ 2 (App. 2012). On March 30, 2021, Troutt filed a petition for an injunction against harassment against Russell in cause number PO202100161, alleging, among other things, that Russell had relocated boundary markers and no-trespass signs from Troutt's property to a neighboring property. The court granted the petition ex parte, and Russell was served on April 30, 2021. In August 2021, under the same cause number, Troutt filed another petition for an injunction against harassment against Russell, alleging, in part, that Russell had approached him and his grandson "in an intimidating and provocative manner." Troutt filed a third petition for an injunction against harassment against Russell in September 2021 in the same cause number, alleging Russell had blocked his driveway with a bulldozer and made hand gestures "like he was pointing a gun" at him. At a hearing that month, the court denied what it deemed an "amended petition." On March 29, 2022, about a month before the injunction against harassment in PO202100161 was to expire, Russell requested dismissal of the order, which the court granted at the conclusion of a hearing on April 11. *See* A.R.S. § 12-1809(J) (injunction expires one year after service on defendant).

¶3 On March 10, 2022, Troutt filed a petition for an injunction against harassment against Russell in cause number PO202200145, alleging Russell had blocked the drive and entrance to his home, chased and yelled at him and his family, assaulted him, and threatened his wife. After the trial court granted the petition ex parte, Russell requested a hearing and dismissal because Troutt "presented false and misleading information." At an April 7 hearing, the court dismissed the injunction. Troutt has appealed both orders dismissing his injunctions against harassment, and we have

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consolidated the matters. We have jurisdiction pursuant to A.R.S. § 12-2101(A)(5)(b).¹

Discussion

¶4 To the extent we understand his argument, Troutt appears to contend the trial court erred by continuing the contested hearing for the PO202200145 matter until April, thus depriving him “of a fair hearing in a timely manner.” He also claims the court was biased in both cases because of a conflict of interest and Pinal County employees “us[ed] our courts to conceal damaging mistakes, unethical acts and criminal misconduct.” As an initial matter, we note that he has provided no transcript of the proceedings on appeal.² See Ariz. R. Civ. App. P. 11(c)(1)(A), (B). In the absence of a transcript, we presume the missing record supports the court’s orders. See *Blair v. Burgener*, 226 Ariz. 213, ¶ 9 (App. 2010).

¶5 Additionally, we deem Troutt’s arguments waived based on his failure to comply with the appellate rules. His opening briefs contain factual assertions that are not supported by citation to the record as required by Rule 13(a)(5), Ariz. R. Civ. App. P. And, he has failed to meaningfully develop his arguments beyond conclusory allegations or cite relevant authority supporting his contentions that the trial court erred. See Ariz. R. Civ. App. P. 13(a)(7) (argument must contain “citations of legal authorities and appropriate references to the portions of the record on

¹As to PO202100161, Troutt’s arguments are arguably moot because the time during which the injunction would have been effective – had it not been dismissed – has passed. As noted above, the injunction was issued on March 30, 2021 and served on April 30, 2021 and therefore would have expired on April 30, 2022. See § 12-1809(J). In *Cardoso v. Soldo*, we recognized that even expired orders of protection have ongoing collateral legal consequences and therefore are not moot for purposes of appellate review. 230 Ariz. 614, ¶¶ 10, 14 (App. 2012). Here, neither party has raised mootness, and we exercise our discretion to consider the merits of the appeal. See *id.* ¶ 9; see also *Phx. Newspapers, Inc. v. Molera*, 200 Ariz. 457, ¶ 12 (App. 2001) (mootness doctrine “is solely a discretionary policy of judicial restraint”).

²Troutt contends he “does not have the funds to obtain transcripts,” but the record reflects he did not seek a fee waiver for the preparation of transcripts. See Ariz. R. Protective Order P. 14(b)(3) (“A court cannot charge a filing fee for a notice of appeal . . . but a party can be charged the cost of preparing the record.”).

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which the appellant relies”); *Ritchie v. Krasner*, 221 Ariz. 288, ¶ 62 (App. 2009) (issues waived when party fails to support argument with citations to authorities and record); *Modular Sys., Inc. v. Naisbitt*, 114 Ariz. 582, 587 (App. 1977) (issues deemed abandoned when a party “fail[s] to state with any particularity why or how the trial court erred in making these rulings and simply concludes that error was committed”). Despite Troutt’s status as a self-represented litigant, we hold him to the same standards as an attorney. See *Kelly v. NationsBanc Mortg. Corp.*, 199 Ariz. 284, ¶ 16 (App. 2000); *Higgins v. Higgins*, 194 Ariz. 266, ¶ 12 (App. 1999).

¶6 Waiver notwithstanding, the trial court did not err by continuing the contested hearing. “A hearing that is requested by a defendant shall be held within ten days from the date requested unless the court finds compelling reasons to continue the hearing.” § 12-1809(H). On March 18, 2022, Russell requested a hearing, and the court set one for April 4. At a March 29 proceeding held “in conjunction with” Troutt and Russell’s other cases, Russell “request[ed] additional time to gather exhibits and witnesses,” and the court vacated the April 4 hearing and reset it for April 7. Although the minute entry reflects that the court may not have made an explicit finding that Russell’s request constituted “compelling reasons to continue the hearing,” because we lack the transcript of the proceeding, we presume it made that finding. See *Blair*, 226 Ariz. 213, ¶ 9.

¶7 As to Troutt’s claim of judicial bias, the record does not support it or reflect that Troutt requested a change of judge in either case. See A.R.S. § 12-409(B) (grounds for change of judge include that “the judge is otherwise interested in the action” and party “has cause to believe and does believe that on account of the bias, prejudice, or interest of the judge he cannot obtain a fair and impartial trial”); see also *Orfaly v. Tucson Symphony Soc.*, 209 Ariz. 260, ¶ 15 (App. 2004) (arguments raised for first time on appeal are untimely and waived). In any event, allegations of bias or prejudice “must be specific and the supporting facts ‘concrete,’” and judicial rulings alone almost never constitute a valid basis for a bias or partiality motion. *State v. Tatlow*, 231 Ariz. 34, ¶ 20 (App. 2012) (quoting *State v. Ellison*, 213 Ariz. 116, ¶ 37 (2006)). Troutt’s conclusory allegations are neither specific nor supported by concrete facts.

¶8 Lastly, to the extent Troutt asks us to search the record for error by broadly claiming the court “made some damaging decisions and errors that should be reviewed and rectified by a higher court,” we are under no obligation to do so here. See *Spillios v. Green*, 137 Ariz. 443, 447 (App. 1983).

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Request for Sanctions

¶9 Without citation to any authority, Russell contends Troutt “should be sanctioned for his malicious behavior.” Likewise, Troutt requests that we hold Russell “in contempt, issue sanctions and impose costs” as we deem “fair and appropriate.” Because neither party has directed us to any relevant authority to issue sanctions, we decline both requests.

Disposition

¶10 We affirm the trial court’s orders dismissing Troutt’s injunctions against harassment.